

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUIS DEJESUS,

Plaintiff,

Dkt No. 22-CV-8456

against

JOHN/JANE DOE 1-10 (the names being fictitious
as their identities are unknown),

COMPLAINT

Jury Trial Demanded

Defendants.
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NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.
3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).
4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

PARTIES

6. Plaintiff Luis Dejesus ("Mr. Dejesus" or "Plaintiff") is an Hispanic male resident of Bronx County in the City and State of New York.
7. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.
8. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of the City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

9. At all times relevant herein, all individual defendants (collectively “Defendants”) were acting under color of state law.

STATEMENT OF FACTS

10. On September 26, 2020, at approximately 8:45 p.m., Mr. Dejesus was standing on the sidewalk with his girlfriend in the vicinity of West 10th Street and Hudson Street, New York, New York.
11. Neither Mr. Dejesus nor his girlfriend were committing any crimes.
12. Mr. Dejesus and his girlfriend began crossing the street in the crosswalk, obeying all traffic signals.
13. While in the crosswalk, John Doe 1, an NYPD lieutenant, pointed at Mr. Dejesus and his girlfriend and said “Get them.”
14. Mr. Dejesus felt John/Jane Doe 2 – 3 grab him from behind and thrown to the ground.
15. Mr. Dejesus was on the ground complying, but John/Jane Doe 2-10 were kicking, punching, and hitting Mr. Dejesus, including putting a knee on the back of his neck causing Mr. Dejesus to have trouble breathing.
- 16.

FIRST CLAIM **Excessive Force**

17. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.
18. The Individual Defendants have deprived Plaintiff of his civil, constitutional and statutory rights under color of law and are liable to Plaintiff under 42 USC 1983.
19. The Individual Defendants have deprived Plaintiff of his right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, in that the Individual Defendants used excessive and unreasonable force in effecting the arrest of Plaintiff.
20. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

SECOND CLAIM
Failure to Intervene

21. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.
22. Those Individual Defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.
23. Accordingly, the Individual Defendants who failed to intervene violated the Fourth and Fourteenth Amendments.
24. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

- (a) Compensatory damages against all Defendants, jointly and severally;
- (b) Punitive damages against the Individual Defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

Dated October 3, 2022
New York, New York

BRUSTEIN LAW, PLLC

/s/
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